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**NCSHPO****National Conference of State Historic Preservation Officers**

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APR 27 2004

Federal Communications Commission  
Office of the Secretary

NCSHPO Comments February 20, 2004

**Definition Changes****II. Definitions**

8. **Field Investigation.** A research strategy that utilizes visit(s) TO THE SITES OF PROPOSED TOWER CONSTRUCTION to ~~Historic Properties~~ as a means of collecting or assessing information ON THE PRESENCE OR ABSENCE OF HISTORIC PROPERTIES..

I think it is more accurate to relate field work to the place where towers may be built rather than to presume there are historic properties at every future tower site.

14. **State or Tribal Inventory.** ~~A data base or listing authorized by state or tribal law that contains names, locations and descriptions of historic sites that meet criteria established by the state or tribal government published or made available to researchers at the SHPO/THPO office or at research libraries, or online.~~ A SET OF RECORDS OF PREVIOUSLY GATHERED INFORMATION ON THE ABSENCE, PRESENCE AND SIGNIFICANCE OF HISTORIC AND ARCHEOLOGICAL RESOURCES WITHIN THE STATE. [SOURCE: Definition of inventory from the National Park Service Historic Preservation Fund. Grants Manual, Chapter 6 page 13, October 1997 Release.]

I think the NPS definition of "inventory" does a better job.

**Exemptions**

The National Conference of State Historic Preservation Officers appreciates the FCC's re-drafting of the exemption section. We believe the elimination of the highway/rail road right of way and industrial park exemptions will protect historic sites is balanced by the substantial streamlining achieved for applicants through the elimination of a requirement for "field investigation" for visual effect for every 106 review applicants conduct.

**Identification, Evaluation and Assessment of Effects**

\* Congratulations to the FCC on this re draft. We appreciate the option to determine an alternate APE, the appropriate, multiple references to the use of "qualified professionals".

**D. Identification and Evaluation of Historic Properties:****1. Identification and Evaluation of Historic Properties Within the APE for Visual Effects**

- a. Except to identify Historic Properties of religious and cultural significance to Indian tribes and NHOs Applicants shall identify Historic Properties within the APE for visual effects by reviewing the following records. Applicants are required to review such records only to the extent they are accessible at the offices of the SHPO/THPO or can be found in publicly available sources identified by the SHPO/THPO. With respect to these properties Applicants are not

is addition of "other publicly available sources" going to create problems with industry?

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required to undertake a Field Investigation or other measures other than reviewing these records in order to identify Historic Properties.

This SHPO "certification" could be another SHPO work load item. I assume it can be achieved by asking the NR administrative assistant.

Is this going to add work for industry? I'm not sure every SHPOs' info on inventory sites has every DOE listed. Will this require research by industry to find?

- i. properties listed in the National Register;
- ii. properties formally determined eligible for listing by the Keeper of the National Register;
- iii. properties that the SHPO/THPO certifies are in the process of being nominated to the National Register;
- iv. properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and
- v. Properties listed in the State or Tribal Inventory that the SHPO/THPO has previously evaluated and considered to be eligible for inclusion in the National Register.

- b. At an early stage in the planning process and in accordance with Section IV of this Nationwide Agreement, the Commission or the Applicant, as appropriate, shall gather information from Indian tribes or NHOs identified pursuant to Section IV.B to assist in identifying historic properties of religious and cultural significance to them within the APE for visual effects. Such information gathering may include a Field Investigation where appropriate. Based on the sources listed above and public comment received

Using "Historic Properties" makes the assumption that consultation with SHPO on NR significance has already taken place.

- c. pursuant to Section V of this Nationwide Agreement the Applicant shall include in its Submission Packet a list of Historic Properties within the APE for visual effects.
  - i. During the review period described in Section VII.A, the SHPO/THPO may identify additional properties included in the State or Tribal Inventory and located within the APE that the SHPO/THPO considers eligible for listing on the National Register, and return the Submission Packet to the Applicant to include such properties pursuant to Section VII.A.4.
  - ii. The SHPO/THPO may also advise the Applicant that previously identified properties on the list no longer qualify for inclusion in the National Register.
- d. Applicants are encouraged at their discretion to use the services of professionals who meet the Secretary of the Interior's Professional Qualification Standards when identifying Historic Properties within the APE for visual effects.
- e. Applicants are not required to evaluate the historic significance of properties identified pursuant to Section VI.D.1.a., but may rely on the previous evaluation of these properties. Applicants may, at their discretion, evaluate whether such properties are no longer eligible for inclusion in the National Register. Any such evaluation shall be performed by a professional who meets the Secretary of the Interior's Professional Qualification Standards.

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#### E. Assessment of Effects

All locally designated properties should have already been considered with the NR listed and eligible properties. Will this look like more "survey" work?

good  
definition

1. Applicants shall assess effects of the Undertaking on Historic Properties using the Criteria of Adverse Effect (36 C.F.R. § 800.5(a)(1)).
2. In determining whether Historic Properties in the APE may be adversely affected by the Undertaking, the Applicant should consider factors such as the topography, vegetation, known presence of Historic Properties (**including locally designated historic districts and traditional cultural properties**), and existing land use.
3. An Undertaking will have a visual adverse effect on a Historic Property if the visual effect from the Facility will noticeably diminish the integrity of one or more of the characteristics qualifying the property for inclusion in or eligibility for the National Register. Construction of a Facility will not cause a visual adverse effect except where visual setting or visual elements are character-defining features of eligibility. Examples include: (1) a designed landscape which includes scenic vistas, (2) a publicly interpreted Historic Property where the setting or views are part of the interpretation, (3) a traditional cultural property which includes qualifying natural landscape elements, or (4) a rural historic landscape.
4. For collocations not excluded from review by the Collocation Agreement or this Agreement, the assessment of effects will consider only effects from the newly added or modified Facilities and not effects from the existing Tower or Antenna.
5. Assessment pursuant to this Agreement shall be performed by professionals who meet the Secretary of the Interior's Professional Qualification Standards.

## VII. PROCEDURES

### A. Use of the Submission Packet

1. For each Undertaking within the scope of this Nationwide Agreement, the Applicant shall initially determine whether there are no Historic Properties affected, no adverse effect on Historic Properties, or an adverse effect on Historic Properties. The Applicant shall prepare a Submission Packet and submit it to the SHPO/THPO and to all consulting parties, including any Indian tribe or NHO that is participating as a consulting party.
2. The SHPO/THPO shall have 30 days from receipt of the requisite documentation to review the Submission Packet.
3. If the Applicant forwards to the SHPO/THPO a comment or objection, in accordance with Section V.E, more than 25 but less than 31 days following its initial submission, the SHPO/THPO shall have five calendar days to consider such comment or objection before the Section 106 process is complete or the matter may be submitted to the Commission.
4. If the SHPO/THPO determines the Applicant's Submission Packet is inadequate, or if the SHPO/SHPO indicates additional Historic Properties within the APE, the SHPO/THPO will immediately return ~~The Submission Packet~~ to INFORM the Applicant with a description of any deficiencies. The SHPO/THPO may close its file without prejudice if the Applicant does not resubmit an amended Submission Packet 60 days following the Applicant's receipt of the returned Submission Packet. Resubmission of the Submission Packet to the SHPO/THPO commences a new 30 day period for review.

Although a small thing, requiring the return of the Packet is an added burden on SHPOs